

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 3/20/2012	(3) CONTACT/PHONE Doug Bird, Hydraulic Operations Administrator (805) 781-5252	
(4) SUBJECT Request to approve a new agreement with H.T. Harvey and Associates and Amendment No. 4 to the agreement with Hanson Environmental for the Arroyo Grande Creek Habitat Conservation Plan and revised water rights permit.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board, acting as the Board of the San Luis Obispo County Flood Control and Water Conservation District: 1. Approve and execute a Professional Agreement with H.T. Harvey and Associates in the amount of \$260,877; and 2. Authorize the Public Works Director to sign amendments to the Agreement, in an amount not to exceed a contingency amount of \$26,000; and 3. Approve Amendment No. 4 to the Professional Agreement with Hanson Environmental increasing the amount of the agreement by \$77,800 for a revised total of \$246,840, and extending the agreement expiration date until January 31, 2014.			
(6) FUNDING SOURCE(S) Zone 3	(7) CURRENT YEAR FINANCIAL IMPACT \$364,677.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)  001900119 - Hanson Env., 0019001120 - H.T. Harvey		(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
(15) LOCATION MAP  Attached	(16) BUSINESS IMPACT STATEMENT?	(17) AGENDA ITEM HISTORY  <input type="checkbox"/> N/A    Date 12/8/09; A-4	
(18) ADMINISTRATIVE OFFICE REVIEW  <i>Nikki J. Schmidt</i>			
(19) SUPERVISOR DISTRICT(S) District 3 - District 4 -			

Reference: 12MAR20-C-9

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

Doug Bird, Hydraulic Operations Administrator

Katie Drexhage, Environmental Resource Specialist

VIA: Mark Hutchinson, Environmental Programs Manager

DATE: 3/20/2012

SUBJECT: Request to approve a new agreement with H.T. Harvey and Associates and Amendment No. 4 to the agreement with Hanson Environmental for the Arroyo Grande Creek Habitat Conservation Plan and revised water rights permit.

### **RECOMMENDATION**

It is our recommendation that your Honorable Board, acting as the Board of the San Luis Obispo County Flood Control and Water Conservation District:

1. Approve and execute a Professional Agreement with H.T. Harvey and Associates in the amount of \$260,877; and
2. Authorize the Public Works Director to sign amendments to the Agreement, in an amount not to exceed a contingency amount of \$26,000; and
3. Approve Amendment No. 4 to the Professional Agreement with Hanson Environmental increasing the amount of the agreement by \$77,800 for a revised total of \$246,840, and extending the agreement expiration date until January 31, 2014.

### **DISCUSSION**

As the operator of the Lopez Water Project, the Flood Control and Water Conservation District (District) was issued a water rights permit in 1961 by the State Water Resources Control Board (State). In 1988, the District was advised by the State that the District's historical operation of the Lopez Project was not consistent with the water rights permit, and the District should file a revised water rights application. In 1990, the State indicated that a completed Habitat Conservation Plan would be required before a revised water rights permit could be issued, consistent with requirements of the Endangered Species Act.

The Federal Endangered Species Act provides for the "take" of endangered and threatened species through detailed permitting processes. For non-federal entities such as the San Luis Obispo County Flood Control and Water Conservation District, Section 10 of the Endangered Species Act establishes the permit process. The keystone of the process is the Habitat Conservation Plan. The

Habitat Conservation Plan is essentially a mitigation plan that describes the project, its effects on listed species, and the actions the applicant will take to avoid, reduce or compensate for those effects.

In 1999 your Board contracted with Stetson Engineers to prepare the studies necessary to support both the Habitat Conservation Plan and the water rights application. That work culminated in 2004 with a draft Habitat Conservation Plan. Subsequently, your Board contracted with Hansen Environmental (previously a sub-consultant to Stetson Engineers) to respond to requests from the National Marine Fisheries Service for detailed scientific review and development of a downstream release program. That work was completed in 2011 by Stetson, now working as a subconsultant to Hanson. With the National Marine Fisheries Service's acceptance of the revised downstream release program, it is now time to update the Habitat Conservation Plan and respond to recent information requests on the related water rights application.

In response to a Request for Qualifications prepared and distributed by the District in July of 2010, H.T. Harvey & Associates was selected as the most qualified of three consultant proposals to prepare the final Habitat Conservation Plan. After reviewing the firm's qualifications, discussing the project with their staff, and meeting with their project managers, it is evident that H.T. Harvey & Associates is qualified to complete the Habitat Conservation Plan process. H.T. Harvey & Associates has demonstrated a thorough understanding of the Section 10 permitting process, the Arroyo Grande Creek Habitat Conservation Plan (past history and present status), and has experience working with the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and projects centered on dam operations.

Lastly, the State has also determined that it will be necessary for the District to complete a Water Availability Analysis in accordance with California Water Code Section 1260(k) in order for the State to continue processing the revised water rights application. The Water Availability Analysis will be used determine if sufficient unappropriated water is available for the District to use as requested in the application. The most cost efficient means for completing the technical part of the Water Availability Analysis is to amend the Hanson contract to allow their subconsultant, Stetson, to do the work, in as much as Stetson has prepared all of the flow modeling associated with the Habitat Conservation Plan.

#### **OTHER AGENCY INVOLVEMENT/IMPACT**

County Counsel is providing legal guidance on all aspects of the Project and has approved the attached agreements as to legal form and effect.

The Flood Control District's Zone 3 (Lopez project) Advisory Committee considered and endorsed the agreements at their January 19, 2012 meeting. The Advisory Committee consists of representatives from the Cities of Arroyo Grande, Pismo Beach and Grover Beach; the Oceano Community Services District; County Service Area 12; a member at large; and an agricultural representative.

The National Marine Fisheries Service and the U.S. Fish and Wildlife Service are responsible for approving the Habitat Conservation Plan and issuing the associated permits. The State Water Resources Control Board is responsible for issuing the revised water rights permit.

## **FINANCIAL CONSIDERATIONS**

The cost estimate for the completion of the Habitat Conservation Plan is \$286,877 including a \$26,000 contingency. This work will be completed under the agreement with H.T. Harvey and Associates.

The original amount of the Hanson Agreement was \$129,040 which was increased to \$169,040 by your Board on December 8, 2009. Expenditures to date have been \$142,851 leaving a contract balance of \$26,189. Today's request will increase the contract amount by \$77,800 for a total contract amount of \$246,840 including a \$10,000 contingency.

Work on the Habitat Conservation Plan will continue to be funded by Zone 3 at the same rate as the current year budget (\$126,000). Costs in excess of this figure will be provided by Zone 3 reserves (currently \$1,900,000). Overall funding for these efforts comes from billings to Flood Control Zone 3 participating agencies (listed above). Because this is an enterprise fund, no formal budget adjustment is necessary.

## **RESULTS**

Approval of the recommended actions will result in the continuation of work on the Habitat Conservation Plan and revised water rights permit for the Lopez Project. These actions will help ensure that the Lopez Project is operated in a manner that will promote a more livable community by continuing to operate in a manner that benefits both the people it serves as well as the environment.

File: Lopez Dam/Lopez Water Rights - Correspondence

Reference: 12MAR20-C-9

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## **ATTACHMENTS**

1. Vicinity Map
2. H.T. Harvey Agreement
3. Amendment No. 4 to Agreement for Technical Support Services - Hanson Environmental